



## Fast Track Proposed Regulation Agency Background Document

<b>Agency name</b>	Board for Geology
<b>Virginia Administrative Code (VAC) citation</b>	18VAC70-20-30
<b>Regulation title</b>	Virginia Board for Geology
<b>Action title</b>	Remove Language Regarding the Duplicate Wall Certificate Fee
<b>Date this document prepared</b>	January 22, 2010

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.*

The proposed regulatory action will remove language creating the fee for duplicate wall certificates. The fee is an administrative fee set and administered by the Department of Professional and Occupational Regulation to comply with the Virginia Freedom of Information Act (VFOIA). *Code of Virginia* § 2.2-3704.F provides that the Department may make reasonable charges not to exceed its actual costs incurred for assessing, duplicating, supplying or searching for requested records. Individuals requesting duplicate wall certificates will be charged a fee in compliance with VFOIA.

### Statement of final agency action

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

(1) On January 5, 2010, the (2) Board for Geology voted to remove language regarding the fee for duplicate wall certificates from its regulations. Removal of the language will amend the (3) Virginia Board for Geology regulations.

**Legal basis**

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.*

Code of Virginia § 2.2-3704.F (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+2.2-3704>) states, in part, "A public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records."

Code of Virginia § 54.1-201.5 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+2.2-3704>) provides that the Board has the power and duty to "promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board."

Code of Virginia § 2.2-3704.A provides that public records must be open to inspection and copying by citizens of the Commonwealth.

The proposed regulatory action removes language regarding the fee for duplicate wall certificates. The fee is provided for by VFOIA to cover costs incurred by the Department for accessing, duplicating, supplying, or searching for requested public records. The Department does not have discretionary authority over FOIA matters.

**Purpose**

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

The purpose of amending the regulation is to remove language regarding the fee for duplicate wall certificates. The fee is an administrative fee set and administered by the Department in compliance with VFOIA. Code of Virginia § 2.2-3704.F provides that the Department may make reasonable charges not to exceed its actual costs incurred for assessing, duplicating, supplying or searching for requested records.

The goal of the proposed regulatory action is to remove from the regulations a fee that must be determined in compliance with VFOIA.

**Rationale for using fast track process**

*Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?*

*Please note: If an objection to the use of the fast-track process is received within the 60-day public comment period from 10 or more persons, any member of the applicable standing committee of either*

*house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.*

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The fast track process is being used to remove language regarding the fee for duplicate wall certificates from the regulations. The proposed regulatory action will result in the fee being set in compliance with VFOIA. There is no substantive change in the existing regulations.

**Substance**

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)*

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No substantive change is proposed. The substance of the regulation remains the same.

**Issues**

*Please identify the issues associated with the proposed regulatory action, including:*  
*1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*  
*2) the primary advantages and disadvantages to the agency or the Commonwealth; and*  
*3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.*

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- 1) The primary advantage to the public is compliance with VFOIA and the removal of a fee controlled by VFOIA from the regulations.
- 2) The primary advantage to the Commonwealth is continued implementation of the fee, as provided for by VFOIA.
- 3) There are no other pertinent matters of interest or any disadvantages to the public or Commonwealth.

**Requirements more restrictive than federal**

*Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.*

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The proposed action is not related to a federal requirement.

**Localities particularly affected**

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

The proposed action does not particularly affect any locality.

**Regulatory flexibility analysis**

*Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

No substantive change is being introduced. The proposed change merely removes language regarding a fee properly established by VFOIA and will have no impact on small businesses. Alternative regulatory methods are not applicable to the proposed change.

**Economic impact**

*Please identify the anticipated economic impact of the proposed regulation.*

<b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</b>	No one-time costs are expected as a result of the proposed regulatory change.  No ongoing costs are expected as a result of the proposed regulatory change.
<b>Projected cost of the regulation on localities</b>	No change anticipated.
<b>Description of the individuals, businesses or other entities likely to be affected by the regulation</b>	The revised regulations apply to Professional Geologist regulants.
<b>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected.</b> Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	There are approximately 854 Certified Professional Geologists.
<b>All projected costs of the regulation for affected individuals, businesses, or other entities.</b>	There is no anticipated additional cost to the regulants. The regulants requesting a duplicate

<p><b>Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</b></p>	<p>wall certificate will continue to be charged a fee for such service.</p>
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**Summary:**

Certain language is being removed from the current regulations. This proposed regulation change removes references to the fee for duplicate wall certificates. This fee is an administrative fee set and administered by the Department and is not determined by the Board for Geology.

All costs incurred in support of board activities and regulatory operations are paid by the department and funded through fees paid by applicants and licensees. All boards within the Department of Professional and Occupational Regulation must operate within the Code provisions of the Callahan Act (54.1-113), and the general provisions of 54.1-201. Each regulatory program's revenues must be adequate to support both its direct costs and a proportional share of agency operating costs. The department allocates costs to its regulatory programs based on consistent, equitable, and cost-effective methodologies. The board has no other source of income.

**Fiscal Impact:**

	FY 2010	FY 2011	FY2012	FY2013
Fund	NGF (0900)	NGF (0900)	NGF (0900)	NGF (0900)
Program/Service Area	560 46	560 46	560 46	560 46

Impact of Regulatory Changes:				
One-Time Costs	0	0	0	0
Ongoing Costs	0	0	0	0
Total Fiscal Impact	0	0	0	0
FTE	0.00	0.00	0.00	0.00

**Description of Costs:**

One-Time: No one-time costs are expected as a result of this regulatory change.

Ongoing: No ongoing costs are expected as a result of this regulatory change.

**Cost to Localities:** No change anticipated.

**Description of Individuals, Businesses, or Other Entities Impacted:** The revised regulations apply to Professional Geologist regulants.

**Estimated Number of Regulants:** There are approximately 854 certified professional Geologists.

**Projected Cost to Regulants:** There is no anticipated additional cost to the regulants. The regulants requesting a duplicate wall certificate will continue to be charged a fee for such service.

**Alternatives**

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.*

No substantive change is being introduced. The proposed change merely removes language regarding a fee properly established by VFOIA and will have no impact on small businesses. Alternative regulatory methods are not applicable to the proposed change.

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

No impact on the institution of family and family stability has been identified.

**Detail of changes**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.*

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

For changes to existing regulations, use this chart:

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
18VAC70-20-30 6		Sets the duplicate wall certificates fee to \$25	Language regarding the fee for duplicate wall certificates is removed. The fee, which will not be eliminated, has been properly established and is provided for by the Virginia Freedom of Information Act (§ 2.2-3700 et seq. of the <i>Code of Virginia</i> ).